THE HONOURABLE SRI JUSTICE V.ESWARAIAH

W.P. No. 17167 of 2007

Date:13-08-2007

Between:

Smt. Gummadi Sujatha …
PETITIONER

AND

The C.I. of Police, Karimnagar Rural and five othrs
..
RESPONDENTS

ORDER:

The petitioner seeks to issue a writ of mandamus directing

the respondent No.1 to enquire into and file an additional or alter the charge sheet on the complaint submitted by the petitioner incorporating the offences under Sections 406 and 420 IPC as against the respondents 2 to 6 and file in SC No.538 of 2006 on the file of the Additional Judicial First Class Magistrate, Karimnagar.

The petitioner is the de facto complainant who filed written intimation, based on which a case in F.I.R.No.252 of 2005, dated 17.12.2005 has been registered by the Station House Office, LMD Colony, Karimnagar District about the missing of her husband and accordingly, a case has been registered under 'man missing' and after investigation, charge sheet has been filed under Section 302 r/w 34 IPC against the accused persons.

It is stated that the second respondent took Rs.60,000/- from the husband of the petitioner to send the petitioner and her deceased husband to gulf countries. But, the second respondent/A-1 did not keep up his assurance either in sending them to abroad or in returning the said amount and in that connection, enmity has been developed and due to the negative jealous effort to get back the money from A-1, then A-2 to A-5 assembled in the house of A-5 and discussed about the aggressive attitude of deceased and decided to kill him and were waiting for an opportunity. While so, in the early hours of 16.12.2005, all of them decided to kill the deceased and accordingly on 16.12.2005 at about 0600 hours the deceased went to his fields and was irrigating the same and on the same day at about 0700 hours A-1 to A-5 assembled at the house of A5, all of

them proceeded near to the scene and were waiting for an opportunity and at about 0820 hours when the deceased was found alone, A-1 called the deceased on the plea of giving pending amount and when the deceased went to him, A-1 dragged him into the nearby fields, pushed him down, while A-2 caught hold of his hands, A-3 legs, A-4 waist and A-5 head, then A-1 strangulated him to death with a rope and later they left the dead body in a bushy area and returned back in a hurry.

It is stated that the police have filed the charge sheet only under Section 302 r/w 34 IPC and in addition to that Section 302 r/w 34 IPC, the offences under Sections 406 and 420 IPC have also been made out against the accused and therefore, the charge sheet ought to have been filed for the offences under Section 406 and 420 IPC also.

I am of the opinion that it is the duty of the State/Public Prosecutor to bring to the notice of the concerned Court about the charges that are to be framed in accordance with law and the concerned Court after perusing the charge sheet and entire material on record, will frame the appropriate charges against the accused. But, there is no provision under the Criminal Procedure Code to give liberty to the de facto complainant pleading additional charges to be incorporated in the charge sheet against the accused persons.

In view of the facts and circumstances of the case, I am of the opinion that there are no merits in the writ petition and the same is liable to be dismissed.

Accordingly, the writ petition is dismissed. No costs.

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V.ESWARAIAH, J.

Date:13.08.2007.
Ccm